

Appln. No. 10/814,989

Attorney Docket No. 8627-372
Client Reference No. PA-5270-CIP

II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested. After entering this Amendment, claims 1-23 remain pending.

In addition, applicants would like to thank the examiner for the interview on February 19, 2008. The discussion related to the proximal biasing of the actuation portion by the retraction mechanism (for example a spring) causing a proximal motion of the elongate control member with respect to the sheath thereby urging the grasping portion into a retracted state. In addition, the amendments contained herein were discussed and it was agreed that the claims defined over the cited references.

Claim Rejections - 35 U.S.C. §103

Claims 1-11 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,944,728 to Bates (Bates) in view of U.S. Patent No. 5,713,907 to Hogendijk et al. (Hogendijk).

Claim 1 recites that the actuation section includes a retraction mechanism that biases the actuation section proximally and hence the grasping portion toward a retracted state. Similarly, claim 23 recites that the retraction mechanism biases the actuation section proximally causing a relative motion between the elongate member and the outer sheath urging the grasping portion to be drawn within the distal end of the outer sheath into a retracted state. As noted by the examiner, Bates does not teach an actuation section that is biased into a retracted state. The examiner relies on Hogendijk to teach a retraction mechanism that biases the actuation section into a retracted state. However, in the text cited by the examiner (column 9, lines 14-25),

Appln. No. 10/814,989

Attorney Docket No. 8627-372
Client Reference No. PA-5270-CIP

Hogendijk only teaches that the coil 59 creates a resistive force between the cup 58 and the grip 75, which forces the frame distally. As discussed in the Abstract and Summary (column 4, lines 20-36), the coil actually biases the frame into an expanded condition to deploy the graft, not a retracted state. Since, Hogendijk does not teach biasing a grasping portion toward a retracted state, it does not teach the present invention according to claim 1 or claim 23.

Claims 2-11 depend from claim 1 and are, therefore, patentable for at least the same reasons as given above in support of claim 1.

In addition, claim 2 recites that the retraction mechanism biases the actuation section and hence the grasping portion toward a retracted state where the grasping portion is drawn within the outer sheath. Clearly, the cited references do not teach the biasing of a grasping portion to a state that is retracted within the sheath. Accordingly, claim 2 is additionally patentable for at least these reasons.

Claims 12-22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Bates in view of Hogendijk and in view of U.S. Patent No. 5,098,440 to Hillstead (Hillstead).

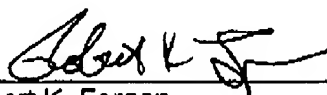
Claims 12-22 depend from claim 1. Further, Hillstead does not teach the elements noted above as missing from Bates and Hogendijk. Therefore, claims 12-22 are patentable for at least the same reasons given above in support of claim 1.

Appl. No. 10/814,989

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In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is requested.

Respectfully submitted by,

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